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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 07 2005

In re Application of
Kimball *et al.*

Serial No.: 10/055,523

Filed: January 23, 2002

For: Dual Feedback Linear Amplifier

Attorney's Docket No: 4740-039

Patent Pending

Examiner: Mr. Michael B. Shingleton

Group Art Unit: 2817

Confirmation No.: 9349

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop 4 (Certificate of Correction Branch), Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 273-8300.

November 7, 2005

Date

Season Munck

REVISED PETITION FOR PRIORITY CLAIM BENEFIT UNDER 35 U.S.C. § 1.78 (a)(3)

Patentee hereby resubmits a revised petition pursuant to 35 U.S.C. § 120 and 37 C.F.R. § 1.78 for priority claim benefit in the instant application. The earlier-filed priority petition was dismissed by the Office for failing to include the application serial number of one of the patents in the priority claim—see the attached copy of the Decision on Petition Under 37 CFR 1.78(a)(3), dated Nov. 1, 2005. This revised petition corrects that error and includes the following items:

1. The reference required by 35 U.S.C. § 120 and paragraph (a)(2) of 37 C.F.R. § 1.78, attached herewith as a Revised Amendment to Correct Priority Claim;
2. A copy of the check that was previously submitted for payment of surcharge; and
3. The statement regarding unintentional delay as required under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78, which appears below.

The originally filed application included the required "Related Applications" section and claimed priority under 35 U.S.C. § 120 from U.S. Patent No. 6,300,826 B1 through the then co-pending patent application Serial No. 09/911,105, which was a continuation of the 6,300,826 patent. The originally filed Related Applications paragraph from the instant application as filed appears below for reference:

[0001] This application claims priority under 35 U.S.C. § 120 from the co-pending application Serial No. 09/911,105, entitled "Apparatus and Method for Efficiently Amplifying Wideband Envelope Signals," filed on July 23, 2001, and which is a continuation of the now-issued and identically titled U.S. Patent No. 6,300,826 B1, and from which priority also is claimed.

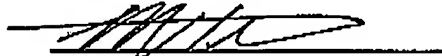
As apparent from the above paragraph, Applicant failed to identify explicitly the relationship between the instant application and the priority references. That is, Applicant failed to state that the instant application was a continuation-in-part of a specifically identified priority reference. It is believed that failure accounts for the Patent Office's omission of any priority claim from the filing receipt received for the instant application.

Unfortunately, that omission was not timely noticed by Applicant and a petition was filed by Applicant on August 22, 2005 to correct the priority claim. That petition was dismissed for failure to include all required information in the priority claim. Thus, Applicant requests that the intended priority claim benefit be granted for the instant application according to this revised petition. Applicant asserts that the entire delay between the date the priority claim was due under paragraph (a)(2)(ii) of Section 1.78 of 37 C.F.R. and the filing date of the earlier-filed petition was unintentional, and further asserts that the earlier-filed petition was a bona fide attempt to perfect the priority claim.

Of course, if any additional showing is required, or if there are any questions regarding this petition, please call the undersigned attorney at (919) 854-1844.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



Michael D. Murphy
Registration No.: 44,958

Dated: November 7, 2005

P.O. Box 5
Raleigh, NC 27602
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For: Dual Feedback Linear Amplifier

Attorney's Docket No: 4740-039

Patent Pending

Examiner: Mr. Michael B. Shingleton

Group Art Unit: 2817

Attention: Office of Petitions
MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 273-8300.

November 7, 2005

Date

Season Munck

REVISED AMENDMENT TO CORRECT PRIORITY CLAIM

This paper is being filed in response to the Notice of Decision on Petition Under 37 CFR 1.78(a)(3), mailed by the Patent Office on Nov. 1, 2005. Specifically, that Decision dismissed Applicant's earlier-filed (Aug. 22) priority claim petition because it failed to include all information required in the priority claim. Thus, with the prior payment of the required petition fee in conjunction with earlier-filed petition, Applicant believes that no further payments are due with this revised submission. However, if additional fees are required for acceptance of this revised petition, the Commissioner is hereby authorized to charge them to Deposit Account 18-1167.

Attorney Docket No. 4740-039
Application Serial No.10/055,523

AMENDMENTS TO THE SPECIFICATION

In the "Related Applications" section of the instant application, please replace the first paragraph ([0001]) with the following paragraph, and please note that the below changes reflect revision markings relative to the original application, not the amendment submitted with the previously dismissed petition:

[0001] This application claims priority under 35 U.S.C. § 120 ~~from~~ as a continuation-in-part of the co-pending application-U.S. Application Serial No. 09/911,105, entitled "Apparatus and Method for Efficiently Amplifying Wideband Envelope Signals," filed on July 23, 2001, now U.S. Patent 6,583,664 B2, which is a continuation of the identically titled U.S. Patent Application Serial No. 09/566,194, filed on May 5, 2000, now and ~~which is a continuation of the now-issued and identically titled U.S. Patent No. 6,300,826 B1, and from which priority also is claimed.~~

Attorney Docket No. 4740-039
Application Serial No.10/055,523

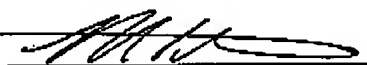
REMARKS

As Applicant noted, this amendment accompanies the revised petition for benefit of priority claim, and provides corrected priority claim text. Specifically, the corrected priority claim identifies the relationship between the instant application and the related applications, includes all application serial numbers related to the priority claim, and is presented in a one-sentence format.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

Dated: November 7, 2005



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4740-039

In Re Application of
Kimball et al.Serial No.: 10/055,523
Filing Date: January 23, 2002

Title: DUAL FEEDBACK LINEAR AMPLIFIER

PAPERS SENT:

1. Petition for Priority Claim Benefit
2. Amendment to Correct Priority Claim
3. Check #15688 for \$1,70
4. Postcard

DATE MAILED: 8/19/05

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COATS & BENNETT, P.L.L.C.

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RALEIGH, NORTH CAROLINA 27611

08-112/531

8/19/2005

15688

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MEMO

*Tom S. Purdie*

⑈015688⑈ ⑈053101121⑈5195211061⑈

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

COATS & BENNETT, P.L.L.C.

15688

U.S. Patent and Trademark Office

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Matter ID

Amount

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COATS & BENNETT, PLLC
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RALEIGH NC 27602

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In re Application of
Donald Felt KIMBALL et al.
Application No. 10/055,523
Filed: January 23, 2002
Attorney Docket No. 4740-039

OFFICE OF PETITIONS

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---,

Application No. 10/055,523

filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed August 22, 2005 fails to identify one of the prior-filed applications by application number (consisting of the series code and serial number) and further fails to set forth the entire priority claim in the first sentence of the specification.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application and identify the prior-filed applications by application number are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.



Brian Hearn
Petitions Examiner
Office of Petitions

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Phone: (919) 854-1844 Facsimile: (919) 854-2084

TO: Office of Petitions

COMPANY: United States Patent and Trademark Office

FAX: (571) 273-8300

FROM: Michael D. Murphy

DATE: November 7, 2005

RE: Our Ref: 4670-4039
Application No: 10/055,523

PAGES (WITH COVER): 10

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